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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

APR 04 2014

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
JOHNSON UTILITIES, LLC, DBA JOHNSON
UTILITIES COMPANY, FOR APPROVAL OF
SALE AND TRANSFER OF ASSETS AND
CONDITIONAL CANCELLATION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. WS-02987A-13-0477

PROCEDURAL ORDER

**(Grants Intervention and Extension
Request, and Establishes Abbreviated
Discovery Deadlines)**

BY THE COMMISSION:

On December 31, 2013, Johnson Utilities, LLC, dba Johnson Utilities Company ("Johnson Utilities" or "Company") filed with the Arizona Corporation Commission ("Commission") the above-captioned application. The application requests approval of the sale and transfer of all of the Company's utility assets and operations in Pinal County, Arizona to the Town of Florence ("Town"), and the cancellation and extinguishment of its Certificate of Convenience and Necessity ("CC&N").

Intervention has been granted to Swing First Golf LLC ("Swing First"), the Residential Utility Consumer Office ("RUCO"), and Pulte Home Corporation.

On March 4, 2014, the Commission's Utilities Division ("Staff") filed a Letter of Sufficiency indicating that the application and information provided to Staff was sufficient for Staff to begin its substantive review of the application.

On March 14, 2014, following a procedural conference held on March 13, 2014, a Procedural Order was issued setting a hearing date and associated procedural deadlines agreed to by the parties.

On April 2, 2014, the Town filed an Application for Leave to Intervene. Counsel for the Town avows that the Florence Town Council voted unanimously on March 26, 2014, to authorize the filing of the Application to Intervene.

On April 3, 2014, responses to Commissioner Bitter Smith's March 24, 2014 letter were filed by Johnson Utilities, RUCO and Staff.

1 On April 3, 2014, the Town filed a Motion for Extension of Time to File Direct Testimony.
2 The Town requests an extension of time to April 15, 2014 for the Town to file Direct Testimony,
3 because the Town received authority to request intervention on March 26, 2014.

4 On April 3, 2014, Swing First filed a Motion to Suspend Procedural Schedule and Continue
5 Hearing. Swing First states that the Town's delay in participating in this proceeding, and its failure to
6 file testimony by March 28, 2014, causes prejudice to the parties who are required to file their Direct
7 Testimony by April 25, 2014. Swing First states that the basis for its agreement to the current
8 procedural schedule was that it provided four weeks for Swing First to review the Town's testimony,
9 conduct discovery, determine whether responsive testimony is needed, and to prepare that testimony.
10 Swing First further states that no asset purchase agreement has yet been made available for review by
11 the Commission or the parties.¹ Swing First requests that the procedural schedule in this matter be
12 suspended indefinitely until the Town has filed written Direct Testimony and has provided the
13 Commission and all parties a copy of an asset purchase agreement.

14 The Town should be granted intervention.

15 It is premature at this time to grant Swing First's request that the procedural schedule be
16 suspended indefinitely. An allowance should be made for extra time for the Town to file its pre-filed
17 Direct Testimony, along with shortened discovery response times and an extension of time for the
18 Staff and intervenors to file their pre-filed Direct Testimony in response to the Town's testimony.

19 Provided that the Town's April 15, 2014 filing includes a fully executed asset purchase
20 agreement that specifies the terms of the proposed asset purchase, the current procedural schedule can
21 accommodate a short delay in the testimony filing schedule prior to the current hearing date. If a
22 fully executed asset purchase agreement is not made available to the parties by noon on April 15,
23 2014, a further delay in the procedural schedule may be required, in order to provide the parties with
24 adequate time to file their responsive testimony, and an accompanying continuance of the May 19,
25 2014 hearing date may be necessary.

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28 ¹ It must be presumed that by "asset purchase agreement" Swing First is referring to a fully executed asset purchase agreement. A draft asset purchase agreement was attached to the March 28, 2014 pre-filed Direct Testimony of Johnson Utilities' witness Daniel Hodges.

1 IT IS THEREFORE ORDERED that the Town of Florence is hereby granted intervention.

2 IT IS FURTHER ORDERED that **direct testimony and associated exhibits** to be presented
3 at hearing on behalf of **the Town of Florence** shall be reduced to writing and filed on or before **noon**
4 **on April 15, 2014**. The **direct testimony** filed on behalf of **the Town of Florence** shall include as
5 an exhibit a **fully executed asset purchase agreement that specifies the terms of the proposed**
6 **asset purchase**.

7 IT IS FURTHER ORDERED that **direct testimony and associated exhibits** to be presented
8 at hearing on behalf of **Staff and intervenors** shall be reduced to writing and filed on or before **noon**
9 **on May 9, 2014**.

10 IT IS FURTHER ORDERED that **rebuttal testimony and associated exhibits** to be
11 presented at hearing on behalf of **Johnson Utilities, LLC dba Johnson Utilities Company and the**
12 **Town of Florence** shall be reduced to writing and filed on or before **noon on May 12, 2014**.

13 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
14 regulations of the Commission. Due to the truncated pre-hearing procedural schedule in this matter,
15 any objection to discovery requests shall be made within 5 calendar days and responses shall be made
16 within 7 calendar days. The response time may be extended by mutual agreement of the parties
17 involved if the request requires an extensive compilation effort.

18 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
19 receiving party requests service to be made electronically, and the sending party has the technical
20 capability to provide service electronically, service to that party shall be made electronically.

21 IT IS FURTHER ORDERED that, in the alternative to filing a written motion to compel
22 discovery, any party seeking resolution of a discovery dispute may telephonically contact the
23 Commission's Hearing Division to request a date for a procedural hearing to resolve the discovery
24 dispute; that upon such a request, a procedural hearing will be convened as soon as practicable; and
25 that the party making such a request shall forthwith contact all other parties to advise them of the
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1 hearing date and shall at the hearing provide a statement confirming that the other parties were
2 contacted.²

3 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
4 31 and 38 and A.R.S. §40-243 with respect to practice of law and admission *pro hac vice*.

5 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
6 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
7 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
8 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
9 discussion unless counsel has previously been granted permission to withdraw by the Administrative
10 Law Judge or the Commission.

11 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
12 Communications) applies to this proceeding and shall remain in effect until the Commission's
13 Decision in this matter is final and non-appealable.

14 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
15 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
16 hearing.

17 DATED this 4th day of April, 2014.

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21 TEENA JIBILIAN
ADMINISTRATIVE LAW JUDGE

22 Copies of the foregoing mailed/delivered
23 this 4th day of April, 2014 to:

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25 BROWNSTEIN HYATT FARBER SCHRECK, LLP
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27

28 ² The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

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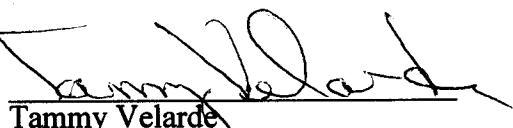
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